

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

FRANK SIVORI

PLAINTIFF

v.

No. 4:16CV74-DMB-JMV

MARSHALL FISHER, ET AL.

DEFENDANTS

**ORDER *GRANTING IN PART AND DENYING IN PART*
PLAINTIFF'S MOTION [84] FOR RECONSIDERATION**

This matter comes before the court on the plaintiff's motion [84] for reconsideration of the court's order [74] granting in part and denying in part the plaintiff's motion for discovery.

In addition to the discovery the court permitted in its previous order, the plaintiff seeks:

- (1) A list of all defendants remaining in the case;
- (2) Letters the plaintiff sent to MDOC complaining about his diet;
- (3) The source of the statement that the plaintiff refused to turn over the names of his attackers; and
- (4) Additional documents regarding the investigation into the attack.

Interlocutory orders, such as the present one, are subject to the complete power of the court rendering them to afford such relief from them as justice requires. 7 Moore's Federal Practice ¶ 60.20 at 60–170 (2d ed. 1985). In this instance, the plaintiff's first and third requests (which can be found in the existing record) are **GRANTED**. The plaintiff's second and fourth requests are **DENIED**.

The deadline for discovery in this case has expired; there is a pending summary judgment motion, and the case is set for evidentiary hearing on August 14, 2019. As such, discovery in this case is **CLOSED**. The court will provide the information the plaintiff seeks in the first and third requests; this information is contained in the record.

Remaining Defendants

The following defendants remain in this case and are represented by counsel:

- (1) Stanley Brooks
- (2) Roger Davis
- (3) Aramark Correctional Services
- (4) Captain Norris Morris
- (5) Captain Mary Jones
- (6) Captain David Bradford
- (7) Lt. Lillie Tellis
- (8) C.O. Marilyn Grandberry.

Report and Recommendations are pending recommending the dismissal of the following defendants due to inability to effect service of process upon them:

- (1) Chris Blaine
- (2) Sgt. S. Williams
- (3) Lt. Ada Robinson
- (4) C.O. Johnson
- (5) C.O. Mitchell
- (6) C.O. Hall
- (7) Spearman
- (8) Parker
- (9) Food Service Supervisor Washington.

The following defendants have been served with process, but have not appeared in the case:

- (1) Ms. Gooden

(2) Rash (Clerk's Entry of Default Entered).

**Source of Defendants' Statement that the Plaintiff
Would Not Provide the Names of His Attackers**

In their response to Mr. Sivori's discovery motion, the defendants stated that "CID could not conduct an investigation, because the plaintiff refused to identify his alleged attackers."

Doc. 66 at 3. In his grievance received by the Administrative Remedy Program on October 10, 2016, Mr. Sivori stated that he was discharged from the hospital on July 6, 2016, and prison guards tried to return him to Unit 29-C Building, the unit where his attackers were housed.

Doc. 66-1 at 4. He stated, "This was due to the fact I had no Red Tags, and refused to give them names. Finally, I was placed into Unit 29-C Building – B-Zone." *Id.* Thus, the defendants relied upon Mr. Sivori's statement in his grievance to determine that he refused to provide the names of his attackers.

SO ORDERED, this, the 22nd day of July, 2019.

/s/ Jane M. Virden
UNITED STATES MAGISTRATE JUDGE